

GERALD M. LEVERETT, S. B. 55841

Attorney at Law  
1830 Truxtun Avenue, Suite 212  
Bakersfield, California 93301  
Post Office Box 1676  
Bakersfield, California 93303-1676

Telephone: (661) 326-0234  
Fax: (661) 324-4960

Attorney for Plaintiffs Wayne Billingsley, Wava  
Billingsley and California Agri Sprayers, Inc.

KEVIN W. ALEXANDER, S.B. 175204

BRIAN LEDGER, ESQ. S.B. 156942

GORDON & REES LLP

101 West Broadway, Suite 1600  
San Diego, CA 92101

Telephone (619) 696-6700  
Fax: (619) 696-7124

Attorneys for Defendant Loveland Industries,  
Inc. d.b.a. UAP West

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA - FRESNO**

WAYNE BILLINGSLEY, WAVA BILLINGSLEY )	CASE NO. CIV F 02 5853 OWW DLB
AND CALIFORNIA AGRI SPRAYERS, INC., )	(NEW DJ)
A California Corporation )	JOINT STIPULATION TO VACATE
)	PRETRIAL DATE, TRIAL DATE, AND
)	TO RESCHEDULE PRETRIAL AND
Plaintiffs, )	TRIAL DATES
)	
vs. )	[Local Rule 78-230(g); 83-143]
)	
LOVELAND INDUSTRIES, INC. d.b.a. )	
UAP WEST, a Colorado Corporation and )	
DOES 1 through 50, inclusive )	
)	
Defendant(s) )	
_____ )	

COME NOW PLAINTIFF CALIFORNIA AGRI SPRAYERS, INC. BY AND THROUGH THEIR ATTORNEY OF RECORD GERALD M. LEVERETT AND DEFENDANTS LOVELAND INDUSTRIES, INC. D.B.A. UAP WEST BY AND THROUGH THEIR ATTORNEYS OF RECORD GORDON & REES, KEVIN ALEXANDER AND BRIAN LEDGER, WHO STIPULATE TO VACATE THE CURRENT TRIAL DATE AND TO CONTINUE TRIAL IN THE WITHIN ACTION; AND WHICH STIPULATION PROVIDES:

**BACKGROUND:**

1. Plaintiff is the owner of certain real property located in the County of Tulare, State of California more particularly referred to by Tulare County Tax Assessors' Numbers 338-070-006, 338-260-016, 338-070-005 and 338-070-006, being a portion of Section 32, Township 26 South, Range 26 East MDB&M.

2. The above referred to real property is devoted to agricultural purposes and specifically three separate almond orchards.

3. The orchards are owned by Plaintiff California Agri Sprayers, Inc., a California corporation.

4. Only one of the three orchards owned by the Plaintiff is the subject of the Plaintiff's action.

For illustrative purposes and information only, attached hereto and made a part hereof is a Tulare County Assessors' Parcel Map showing those parcels owned and the one parcel which is the subject of the within action, denoted as "subject parcel", Exhibit 1.

5. During the pendency of this action, Plaintiff's counsel underwent abdominal surgeries in February, March, June and November of 2004. The parties conducted discovery while accommodating counsel's medical needs.

6. The parties have exchanged Expert Witness Disclosures and have commenced Expert

7. Currently the depositions of expert witnesses are to be taken. Counsel has cooperated with dates to coordinated with the experts availability. The remaining expert witnesses to deposed are:

1. Dale W. Rush, Ph.D.
2. Alborz A. Wozniak, P.E.
3. Michael Ming, ADA
4. William E. Patin, CPA/ABV

8. Prior to the taking of the above expert depositions the parties hereto agree to and did participate in an agreed upon Mediation before the Honorable Judge John Leo Wagner, Retired United States District Court Judge. While the Mediation was extremely helpful the parties were not able to reach a mediated agreement. Retired Judge Wagner continues to communicate with the parties in a continued effort to mediate a resolution of the parties' dispute, however, the parties have agreed to prepare for trial in the meantime.

9. During the week of September 5, 2006, Plaintiff's counsel was advised that an angiogram was needed. That angiogram has been scheduled to take place on Thursday, September 21, 2006. This will prevent the deposition of the experts referenced above being taken and completed prior to the date of the required Joint Pretrial Conference Statement, September 20, 2006, and appropriate trial preparation including possible rebuttal experts and their related discovery.

10. The Joint Pretrial Statement is currently set to filed on or before September 20, 2006.

11. The Pretrial Conference in the above referenced matter is currently set to take place on Monday, September 25, 2006 at 11:00 a.m. in Department 3 before the Honorable Oliver Wanger, Presiding.

12. Trial in this matter is currently set for Tuesday, November 7, 2006 in Courtroom Number 3 before the Honorable Oliver Wanger.

13. The facts set forth hereinabove and the unanticipated medical requirements of counsel

14. Counsel have discussed the matter and have agreed upon a new Trial, with the Court's permission, in February of 2007, with a Pretrial date during the week of January 15, 2007 and a Joint Pretrial Statement being filed on or before December 18, 2007.

### **STIPULATION**

WHEREFORE, based upon the above facts, the parties hereto stipulate to vacate the current Pretrial date of September 25, 2006 and to vacate the current Trial date of November 7, 2006.

The parties further stipulate to reset the Pretrial Conference to the week of January 15, 2007 and to continue and reset the Trial in the matter to February 13, 2007, or at the Court's convenience, including February, 2007.

So stipulated.

Date: September 18, 2006

\_\_\_\_\_/S/  
California Agri Sprayers  
By Gerald M. Leverett, Esq.

So Stipulated.

Date: September 18, 2006

\_\_\_\_\_/S/  
Loveland Industries, Inc. d.b.a.  
UAP West  
By Brian Ledger, Esq.

### **ORDER**

The Court, having considered the Joint Stipulation of the parties hereto to vacate the current Pretrial date of Monday, September 25, 2006 and the current Trial date of November 7, 2006 and, GOOD CAUSE APPEARING, the Court hereby approves the Stipulation.

The Court does hereby vacate the current Pretrial Conference of date of September 25, 2006.

The Court does hereby vacate the Trial date of November 7, 2006.

It is FURTHER ORDERED that the Pretrial Conference be rescheduled for January 16, 2007 at

It is FURTHER ORDERED that Trial in the above referenced matter is rescheduled for February 27, 2007 at 9:00 a.m. in Department 3 of the above referenced court.

IT IS ORDERED.

DATE: 9/19/2006

\_\_\_\_/s/ Oliver W. Wanger\_\_\_\_\_  
OLIVER WANGER  
U. S. DISTRICT JUDGE